

## **BILL ANALYSIS**

Senate Research Center  
87R27533 KFF-D

C.S.H.B. 3898  
By: Anchia (Huffman)  
Finance  
5/20/2021  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Concerns have been raised in recent years regarding the ability of public retirement systems to pay their long-term obligations. State law governing funding soundness restoration plans requires public retirement systems and their associated governmental entities to adopt a remediation plan if existing liabilities cannot be paid off within 40 years. However, it has been suggested that the remediation requirements for plans facing serious funding shortfalls operate independently from more recent funding policy mandates and do not align with pension funding guidelines of the State Pension Review Board. H.B. 3898 seeks to remedy this situation by more closely aligning existing mandates and reporting requirements for these systems with current industry practices to ensure the long-term financial health of Texas' public retirement systems.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 3898 amends current law relating to the funding of public retirement systems.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the State Pension Review Board in SECTION 2 (Section 802.2011, Government Code), SECTION 3 (Section 802.2015, Government Code), and SECTION 4 (Section 802.2016, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 28(h), Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), as follows:

(h) Provides that a retirement system established under this Act is exempt from Subchapter C (Administration of Assets), Chapter 802 (Administrative Requirements), Government Code, except certain sections, including, among others, Sections 802.2011 and 802.2015.

SECTION 2. Amends Section 802.2011, Government Code, as follows:

Sec. 802.2011. FUNDING POLICY. (a) Defines "statewide retirement system" in this section.

(b) Requires the governing body of a public retirement system and, if the system is not a statewide retirement system, its associated governmental entity, to:

(1) jointly, if applicable:

(A) develop and adopt a written funding policy that details a plan, rather than adopt a written funding policy that details the governing body's plan, for achieving a funded ratio of the system that is equal to or greater than 100 percent; and

(B) timely revise the policy to reflect any significant changes to the policy, including changes required as a result of formulating and

implementing a funding soundness restoration plan, including a revised funding soundness restoration plan, under Section 802.2015 (Funding Soundness Restoration Plan) or 802.2016 (Funding Soundness Restoration Plan for Certain Public Retirement Systems);

(2) and (3) makes no changes to these subdivisions; and

(4) post a copy of the most recent edition of the policy on a publicly available Internet website in accordance with Section 802.107(c)(2) (relating to the requirement that a public retirement system post on a publicly available Internet website a copy of the most recent edition of each certain report and certain other written information), rather than submit a copy of the policy and each change to the policy to the system's associated governmental entity not later than the 31st day after the date the policy or change is adopted.

(c) Requires that the written funding policy, for purposes of Subsection (b)(1)(B), outline any automatic contribution or benefit changes designed to prevent having to formulate a revised funding soundness restoration plan under Section 802.2015(d), including any automatic risk-sharing mechanisms that have been implemented, the adoption of an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms.

(d) Authorizes the State Pension Review Board (PRB) to adopt rules necessary to implement this section.

SECTION 3. Amends Section 802.2015, Government Code, by amending Subsections (a), (c), (d), (e), (f), and (g) and adding Subsections (d-1), (e-1), (e-2), (e-3), (e-4), and (h), as follows:

(a) Defines "funded ratio" for Section 802.2015 (Funding Soundness Restoration Plan).

(c) Requires a public retirement system to notify the associated governmental entity in writing if the system, rather than the retirement system, receives an actuarial valuation indicating that the system's actual contributions are not sufficient to amortize the unfunded actuarial accrued liability within 30 years, rather than 40 years. Requires the governing body of the public retirement system and the governing body of the associated governmental entity to jointly formulate a funding soundness restoration plan under Subsection (e) if the system's actuarial valuation shows that the system's expected funding period:

(1) has exceeded 30 years for three consecutive annual actuarial valuations, or two consecutive annual actuarial valuations in the case of a system that conducts the valuations every two or three years; or

(2) effective September 1, 2025:

(A) exceeds 40 years; or

(B) exceeds 30 years and the funded ratio of the system is less than 65 percent.

Deletes existing text requiring the governing body of the public retirement system and the associated governmental entity, if a public retirement system's actuarial valuation shows that the system's amortization period has exceeded 40 years for three consecutive annual actuarial valuations, or two consecutive actuarial valuations in the case of a system that conducts the valuations every two or three years, to formulate a funding soundness restoration plan under a certain subsection in accordance with the system's governing statute.

(d) Requires the governing body of a public retirement system and the governing body of the associated governmental entity that have an existing funding soundness restoration plan under Subsection (e), except as provided by Subsection (d-1), to formulate a revised funding soundness restoration plan under Subsection (e-1) if the system becomes subject to Subsection (c) before the 10th anniversary of the date prescribed by Subsection (e)(2)(A) or (B), as applicable.

Deletes existing text requiring the governing body of a public retirement system and the associated governmental entity that have formulated a funding soundness restoration plan under Subsection (e) to formulate a revised funding soundness restoration plan under that subsection, in accordance with the system's governing statute, if the system conducts an actuarial valuation showing that the system's amortization period exceeds 40 years and the previously formulated funding soundness restoration plan has not been adhered to.

(d-1) Provides that the governing body of a public retirement system and the governing body of the associated governmental entity are not subject to Subsection (d) if:

(1) the system's actuarial valuation shows that the system's expected funding period exceeds 30 years but is less than or equal to 40 years; and

(2) the system is:

(A) adhering to an existing funding soundness restoration plan that was formulated before September 1, 2025; or

(B) implementing a contribution rate structure that uses or will ultimately use an actuarially determined contribution structure and the system's actuarial valuation shows that the system is expected to achieve full funding.

(e) Requires that a funding soundness restoration plan formulated under this section:

(1) makes a nonsubstantive change to this subdivision;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 30 years, rather than 40 years, not later than the later of:

(A) the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan under this subsection, rather than the 10th anniversary of the date on which the final version of a funding soundness restoration plan is agreed to; or

(B) September 1, 2025;

(3) be based on actions agreed to be taken by the system and entity that were approved by the respective governing bodies of both the system and the entity before the plan was adopted; and

(4) be adopted at open meetings of the respective governing bodies of the system and the entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-1) Requires that a revised funding soundness restoration plan formulated under Section 802.2015:

(1) be developed by the public retirement system and the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 25 years not later than the second anniversary of the valuation date stated in the actuarial valuation that required formulation of a revised plan under this subsection;

(3) be based on actions, including automatic risk-sharing mechanisms, an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms, agreed to be taken by the system and entity that were approved by the respective governing bodies of both the system and the entity before the plan was adopted; and

(4) be adopted at open meetings by the respective governing bodies of the system and the entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-2) Authorizes a system, not later than the 90th day after the date on which the plan is adopted by both the governing body of the system and the governing body of the associated governmental entity, to submit to PRB an actuarial valuation required under Section 802.101(a) (relating to the requirement of the governing body of a public retirement system to employ an actuary, as a certain employee or as a consultant, to make a valuation at least once every three years of assets and liabilities) or other law that shows the combined impact of all changes to a funding soundness restoration plan adopted under Section 802.2015, including a revised funding soundness restoration plan adopted under Subsection (e-1). Authorizes PRB, if a system does not provide an actuarial valuation to PRB in accordance with this subsection, to request that the system provide a separate analysis of the combined impact of all changes to a funding soundness restoration plan adopted under this section not later than the 90th day after the date PRB makes the request. Requires that an actuarial valuation or separate analysis conducted under this subsection include:

(1) an actuarial projection of the public retirement system's expected future assets and liabilities between the valuation date described by Subsection (e)(2)(A) or (e-1)(2), as applicable, and the date at which the plan is expected to achieve full funding; and

(2) a description of all assumptions and methods used to perform the analysis which are required to comply with actuarial standards of practice.

(e-3) Authorizes the associated governmental entity to pay all or part of the costs of the separate analysis required under Subsection (e-2). Requires the public retirement system to pay any costs for the analysis not paid by the associated governmental entity.

(e-4) Prohibits a funding soundness restoration plan adopted under Section 802.2015, including a revised funding soundness restoration plan adopted under Subsection (e-1), from including actions that are subject to future approval by the governing bodies of either the public retirement system or the associated governmental entity.

(f) Requires a public retirement system and the associated governmental entity required to formulate a funding soundness restoration plan under this section, including a revised funding soundness restoration plan, to provide a report to PRB on progress made by the system and entity in formulating the plan, including a draft of any plan and a description of any changes under consideration for inclusion in a plan, not later than the first anniversary of the date of the actuarial valuation that required formulation of the plan under Subsection (e) or (e-1) and each subsequent six-month period until the plan is submitted to PRB under this section. Deletes existing text requiring a public retirement system and the associated governmental entity that formulate a funding soundness restoration plan to report any updates of progress made by the entities toward improved actuarial soundness to PRB every two years.

(g) Requires each public retirement system that formulates a funding soundness restoration plan as provided by this section to submit a copy of that plan to PRB and any change to the plan not later than the 31st day after the date on which the plan is adopted by both the governing body of the system and the governing body of the associated governmental entity or the date the change is agreed to, rather than the 31st day after the date on which the plan or the change is agreed to.

(h) Authorizes PRB to adopt rules necessary to implement this section.

SECTION 4. Amends Section 802.2016, Government Code, as follows:

Sec. 802.2016. FUNDING SOUNDNESS RESTORATION PLAN FOR CERTAIN PUBLIC RETIREMENT SYSTEMS. (a) Defines "funded ratio" and "governmental entity" in this section.

(b) Provides that this section applies only to a public retirement system that is governed by Article 6243i (Unitary Retirement System for Certain Municipalities), Revised Statutes, and its associated governmental entity, rather to a public retirement system that is governed by Article 6243i, Revised Statutes.

(c) Requires a public retirement system to notify the associated governmental entity in writing if the system, rather than if the retirement system, receives an actuarial valuation indicating that the system's actual contributions are not sufficient to amortize the unfunded actuarial accrued liability within 30 years, rather than within 40 years. Requires the governing body of the associated governmental entity to formulate a funding soundness restoration plan under Subsection (e) if the system's actuarial valuation shows that the system's expected funding period:

(1) has exceeded 30 years for three consecutive annual actuarial valuations, or two consecutive annual actuarial valuations in the case of a system that conducts the valuations every two or three years; or

(2) effective September 1, 2025:

(A) exceeds 40 years; or

(B) exceeds 30 years and the funded ratio of the system is less than 65 percent.

Deletes existing text requiring the associated governmental entity, if a public retirement system's actuarial valuation shows that the system's amortization period has exceeded 40 years for three consecutive annual actuarial valuations, or two consecutive actuarial valuations in the case of a system that conducts the valuations every two or three years, to formulate a funding soundness restoration plan under Subsection (e) in accordance with the public retirement system's governing statute.

(d) Requires the governing body of an associated governmental entity that has an existing funding soundness restoration plan under Subsection (e), except as provided by Subsection (d-1), to formulate a revised funding soundness restoration plan under Subsection (e-1) if the system becomes subject to Subsection (c) before the 10th anniversary of the date prescribed by Subsection (e)(2)(A) or (B), as applicable. Deletes existing text requiring an associated governmental entity that has formulated a funding soundness restoration plan under Subsection (e) to formulate a revised funding soundness restoration plan under that subsection, in accordance with the public retirement system's governing statute, if the system conducts an actuarial valuation showing that the system's amortization period exceeds 40 years and the previously formulated funding soundness restoration plan has not been adhered to.

(d-1) Provides that the associated governmental entity is not subject to Subsection (d) if:

(1) the system's actuarial valuation shows that the system's expected funding period exceeds 30 years but is less than or equal to 40 years; and

(2) the system is:

(A) adhering to an existing funding soundness restoration plan that was formulated before September 1, 2025; or

(B) implementing a contribution rate structure that uses or will ultimately use an actuarially determined contribution structure and the system's actuarial valuation shows that the system is expected to achieve full funding.

(e) Requires that a funding soundness restoration plan formulated under this section:

(1) makes a nonsubstantive change to this subdivision;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 30 years, rather than within 40 years, not later than the later of:

(A) the second anniversary of the valuation date stated in the actuarial valuation that required formulation of the plan under this subsection, rather than the 10th anniversary of the date on which the final version of a funding soundness restoration plan is formulated; or

(B) September 1, 2025;

(3) be based on actions, including automatic risk-sharing mechanisms, an actuarially determined contribution structure, and other adjustable benefit or contribution mechanisms, agreed to be taken by the system and entity that were approved by the governing body of the associated governmental entity before the plan was adopted; and

(4) be adopted at an open meeting of the governing body of the associated governmental entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-1) Requires that a revised funding soundness restoration plan formulated under this section:

(1) be developed by the associated governmental entity in accordance with the system's governing statute;

(2) be designed to achieve a contribution rate that will be sufficient to amortize the unfunded actuarial accrued liability within 25 years not later than the second anniversary of the valuation date stated in the actuarial valuation that required formulation of a revised plan under this subsection;

(3) be based on actions agreed to be taken by the system and entity that were approved by the governing body of the associated governmental entity before the plan was adopted; and

(4) be adopted at an open meeting of the governing body of the associated governmental entity not later than the second anniversary of the date the actuarial valuation that required application of this subsection was adopted by the governing body of the system.

(e-2) Authorizes a system, not later than the 90th day after the date on which the plan is adopted by the governing body of the associated governmental entity, to submit to PRB an actuarial valuation required under Section 802.101(a) or other law that shows the combined impact of all changes to a funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1). Authorizes PRB, if a system does not provide an actuarial valuation to PRB in accordance with this subsection, to request that the system provide a separate analysis of the combined impact of all changes to a funding soundness restoration plan adopted under this section not later than the 90th day after the date PRB makes the request. Requires that an actuarial valuation or the separate analysis conducted under this subsection include:

(1) an actuarial projection of the public retirement system's expected future assets and liabilities between the valuation date described by Subsection (e)(2)(A) or (e-1)(2), as applicable, and the date at which the plan is expected to achieve full funding; and

(2) a description of all assumptions and methods used to perform the analysis which are required to comply with actuarial standards of practice.

(e-3) Authorizes the associated governmental entity to pay all or part of the costs of the separate analysis required under Subsection (e-2). Requires the public retirement system to pay any costs for the analysis not paid by the associated governmental entity.

(e-4) Prohibits a funding soundness restoration plan adopted under this section, including a revised funding soundness restoration plan adopted under Subsection (e-1), from including actions that are subject to future approval by the governing body of the associated governmental entity.

(f) Requires an associated governmental entity required to formulate a funding soundness restoration plan under this section, including a revised funding soundness restoration plan, to provide a report to PRB on progress made by the associated governmental entity in formulating the plan, including a draft of any plan and a description of any changes under consideration for inclusion in a plan, not later than the first anniversary of the date of the actuarial valuation that required formulation of the plan under Subsection (e) or (e-1) and each subsequent six-month period until the plan is submitted to PRB under this section. Deletes existing text requiring an associated governmental entity that formulates a funding soundness restoration plan to report any updates of progress made by the public retirement system and associated governmental entity toward improved actuarial soundness to PRB every two years.

(g) Requires an associated governmental entity that formulates a funding soundness restoration plan as provided by this section to submit a copy of that plan to PRB and any change to the plan not later than the 31st day after the date on which the plan is adopted by the governing body of the associated governmental entity or the date the change is formulated, rather than the 31st day after the date on which the plan or the change is formulated.

(h) Authorizes PRB to adopt rules necessary to implement this section.

SECTION 5. Provides that the changes in law made by this Act apply to a funding soundness restoration plan that is formulated or revised under Section 802.2015 or 802.2016, Government

Code, as applicable, on or after the effective date of this Act. Provides that a funding soundness restoration plan formulated or revised before the effective date of this Act other than a plan that is subject to Section 802.2015(d-1) or Section 802.2016(d-1), Government Code, as added by this Act, is governed by the law as it existed immediately before that date, and the former law is continued in effect for that purpose, except if:

(1) the public retirement system and its associated governmental entity are required to formulate a revised funding soundness restoration plan under Section 802.2015(d), Government Code, as that section existed immediately before the effective date of this Act, the system and its associated governmental entity are required to formulate the plan under Section 802.2015(e), Government Code, as amended by this Act, rather than as that section existed immediately before the effective date of this Act; or

(2) a public retirement system's associated governmental entity is required to formulate a revised funding soundness restoration plan under Section 802.2016(d), Government Code, as that section existed immediately before the effective date of this Act, the associated governmental entity is required to formulate the plan under Section 802.2016(e), Government Code, as amended by this Act, rather than as that section existed immediately before the effective date of this Act.

SECTION 6. Effective date: September 1, 2021.